

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

STEVEN SMITH,

Plaintiff,

v.

UNITED STATES OF AMERICA; and U.S.
DEPARTMENT OF TRANSPORTATION,

Defendant.

Case No. 6:22-CV-00732-MK

ORDER

MCSHANE, Judge:

Magistrate Judge Mustafa T. Kasubhai filed a Findings and Recommendation (ECF No. 52), and the matter is now before this Court on Defendant's objections. *See* 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). I review *de novo*. *United States v. Bernhardt*, 840 F.2d 1441, 1445 (9th Cir. 1998). I find no error and conclude the report is correct.

Magistrate Judge Kasubhai's Findings and Recommendation (ECF No. 52) is adopted in full. Plaintiff's Motion for Partial Summary Judgment is DENIED and the arguments cited within are construed as part of his response to Defendant's Partial Motion to Dismiss. Defendant's Partial

Motion to Dismiss is DENIED as to claims 1–7 of count one and GRANTED as to claims 8 and 9 of count one. Plaintiff's claims 8 and 9 of count one are DISMISSED with leave to amend.

IT IS SO ORDERED.

DATED this 30th day of October, 2023.

/s/Michael McShane

Michael McShane
United States District Judge